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Attorneys for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROB ZOMBIE, a/k/a Robert Wolfgang
Zombie, f/k/a Robert Cummings; WHITE
ZOMBIE, a general partnership;
WHITESNAKE, a doing business as
designation of David Coverdale, by and for
WHITESNAKE PRODUCTIONS
(OVERSEAS) LIMITED; and DAVE
MASON, individually and on behalf of all
others similarly situated,

Plaintiffs,

vs.

UMG RECORDINGS, INC., a Delaware
corporation,

Defendant.

Case No. CV 11-02431 SI

**STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING HEARING
DATE**

The Honorable Susan Illston

1 Plaintiffs in the above-captioned action, Defendant UMG Recordings, Inc. (“UMGR”),
2 and proposed intervener, The Tubes, by and through their counsel, hereby stipulate as follows:

3 WHEREAS, Plaintiffs in this case filed their complaint on May 18, 2011;

4 WHEREAS, on June 1, 2011, the Court issued an Order relating this case to the case
5 entitled *Rick James et. al. v. UMG Recordings, Inc.*, Case No. CV 11-01613 SI (the “James
6 Action”);

7 WHEREAS, on July 8, 2011, UMGR filed in this case: (a) a Motion to Dismiss Action for
8 Improper Venue or Transfer Action to Central District of California (“Zombie Venue Motion”);
9 and (b) a Motion to Dismiss Fourth Cause of Action for Violation of California Business &
10 Professions Code § 17200 (“Zombie Motion to Dismiss”);

11 WHEREAS, on June 10, 2011, UMGR filed in the James Action: (a) a Motion to Dismiss
12 Action for Improper Venue or Transfer Action to Central District of California (“James Venue
13 Motion”); and (b) a Motion to Dismiss Fourth Cause of Action for Violation of California
14 Business & Professions Code § 17200 (“James Motion to Dismiss”);

15 WHEREAS, on July 27, 2011, The Tubes filed in this case a Motion to Intervene as
16 Plaintiff and Additional Class Representative (“Motion to Intervene”);

17 WHEREAS, the Zombie Venue Motion, Zombie Motion to Dismiss, Motion to Intervene,
18 James Venue Motion, and James Motion to Dismiss have all been fully briefed;

19 WHEREAS, by notice dated August 18, 2011, the hearing on the Zombie Venue Motion,
20 Zombie Motion to Dismiss, and Motion to Intervene was continued until September 2, 2011 at
21 9:00 a.m. (Docket No. 25);

22 WHEREAS, on August 19, 2011, the Court’s law clerk confirmed by email that the
23 hearing on the James Venue Motion and James Motion to Dismiss was also continued until
24 September 2, 2011 at 9:00 a.m., such that all pending motions in both actions are currently
25 scheduled to be heard at that time;

26 WHEREAS, due to prior-scheduled commitments, counsel are unavailable for a hearing
27 on September 2, 2011 at 9:00 a.m., and the parties therefore wish to continue the hearing on all
28 pending motions to the next hearing date that is available for the Court and the parties;

1 WHEREAS, due to prior-scheduled commitments, counsel for the parties are unavailable
2 for a hearing on September 9, 2011 or September 16, 2011;

3 WHEREAS, the parties therefore jointly and respectfully request that the Court continue
4 the hearing on all pending motions until September 22, 2011 at 9:00 a.m.;

5 WHEREAS, the purpose of this request is not for delay;

6 WHEREAS, the requested continuance will not alter any other deadlines set by the Court;

7 WHEREAS, concurrent with the filing of this stipulation, the parties in the James Action
8 are filing a similar request to continue the hearing on the motions pending in that case (*i.e.*, the
9 James Venue Motion and James Motion to Dismiss) to the same hearing date, September 22,
10 2011 at 9:00 a.m.;

11 IT IS HEREBY STIPULATED THAT:

12 1. The parties respectfully request that the hearing on the pending Zombie Venue
13 Motion, Zombie Motion to Dismiss, and Motion to Intervene be continued from September 2,
14 2011 until September 22, 2011 at 9:00 a.m.

15
16 IT IS SO STIPULATED.

17 Dated: August 22, 2011

18 PHILLIPS, ERLEWINE & GIVEN LLP
19 DAVID M. GIVEN
20 NICHOLAS A. CARLIN
21 ALEXANDER H. TUZIN

22 By: /s/ David M. Given
23 David M. Given

24 Counsel for Plaintiffs Rob Zombie et al. and The
25 Tubes
26
27
28

1 Dated: August 22, 2011

JEFFER MANGELS BUTLER & MITCHELL
LLP
JEFFREY D. GOLDMAN
RYAN S. MAUCK
BRIAN M. YATES

5 By: /s/ Jeffrey D. Goldman
Jeffrey D. Goldman

7 Counsel for Defendant UMG Recordings, Inc.

9 I, Roger N. Heller, am the ECF User whose ID and password are being used to file this
10 document. In compliance with General Order 45, section X.B., I hereby attest that concurrence in
11 the filing of the document has been obtained from each of the other signatories.

13 By: /s/ Roger N. Heller

[PROPOSED] ORDER

IT IS HEREBY ORDERED, pursuant to the Stipulation between the parties, that:

1. The hearing on the pending Zombie Venue Motion, Zombie Motion to Dismiss, and Motion to Intervene is continued until September 22, 2011 at 9:00 a.m.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 8/25/11



The Honorable Susan Illston
United States District Judge

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8 *Attorneys for Plaintiffs and The Tubes*

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 ROB ZOMBIE, a/k/a Robert Wolfgang
13 Zombie, f/k/a Robert Cummings; WHITE
ZOMBIE, a general partnership;
14 WHITESNAKE, a doing business as
designation of David Coverdale, by and for
15 WHITESNAKE PRODUCTIONS
(OVERSEAS) LIMITED; and DAVE
16 MASON, individually and on behalf of all
others similarly situated,

17 Plaintiffs,

18 vs.

19 UMG RECORDINGS, INC., a Delaware
20 corporation,

21 Defendant.

Case No. CV 11-02431 SI

**DECLARATION OF DAVID M. GIVEN
IN SUPPORT OF STIPULATION AND
[PROPOSED] ORDER CONTINUING
HEARING DATE**

The Honorable Susan Illston

1 I, David M. Given, declare as follows:

2 1. I am admitted to practice before this Court and am an attorney at Phillips, Erlewine
3 & Given LLP, counsel for Plaintiffs and proposed intervenor The Tubes in the above-captioned
4 action. I submit this declaration in support of the parties' Stipulation and [Proposed] Order
5 Continuing Hearing Date. The facts set forth herein are based upon personal knowledge.

6 2. By notice dated August 18, 2011, the hearing on the pending Zombie Venue
7 Motion, Zombie Motion to Dismiss, and Motion to Intervene was continued until September 2,
8 2011 at 9:00 a.m. (Zombie Docket No. 25).

9 3. On August 19, 2011, the Court's law clerk confirmed by email that the hearing on
10 the pending James Venue Motion and James Motion to Dismiss was also continued until
11 September 2, 2011 at 9:00 a.m., such that all pending motions in both actions are currently
12 scheduled to be heard at that time.

13 4. Due to prior-scheduled commitments, counsel are unavailable for a hearing on
14 September 2, 2011 at 9:00 a.m., and the parties therefore wish to continue the hearing on all
15 pending motions to the next hearing date that is available for the Court and the parties. Due to
16 prior-schedule commitments, counsel for the parties are unavailable for a hearing on September 9,
17 2011 or September 16, 2011. The parties therefore jointly and respectfully request that the Court
18 continue the hearing on all pending motions until September 22, 2011 at 9:00 a.m.

19 5. The parties previously requested the following time modifications in this case: (a)
20 Stipulation To Extend Time To File Answer Or Other Response To Plaintiffs' Complaint, filed
21 June 1, 2011 (Zombie Docket No. 4); and (b) Stipulation To Continue Hearing Date And Amend
22 Briefing Schedule On Defendant UMG Recordings, Inc.'s Pending Motions To Dismiss And
23 Transfer, filed June 28, 2011 (Zombie Docket No. 7), which the Court granted by Order dated
24 June 29, 2011 (Zombie Docket No. 8).

25 6. The purpose of the requested continuance is not delay. The requested continuance
26 will not alter any other deadlines set by the Court.

27
28 I declare under penalty of perjury under the laws of the United States of America that the

1 foregoing is true and correct.

2 Executed this 22nd day of August 2011 at San Francisco, California.

3 /s/ David M. Given

4 David M. Given

5
6
7
8 I, Roger N. Heller, am the ECF User whose ID and password are being used to file this
9 document. In compliance with General Order 45, section X.B., I hereby attest that concurrence in
10 the filing of the document has been obtained from each of the other signatories.

11
12 By: /s/ Roger N. Heller

13 934743.1